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The Honorable Richard A. Jones

OCT 08 2019

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff
v.
BRYAN EDMOND SAROWSKI
Defendant

NO. CR19-080 RAJ
PLEA AGREEMENT

The United States of America, by and through Brian T. Moran, United States Attorney for the Western District of Washington, and William Dreher, Assistant United States Attorney, the defendant, BRYAN EDMOND SARNOWSKI, and his attorney, Nancy Tenney, enter into the following agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(A) and (B):

1. **The Charges.** The defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enters pleas of guilty to the following charges contained in the Indictment:

a. *Possession with intent to distribute methamphetamine*, a lesser-included offense of the offense charged in Count 1 of the Indictment, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C);

- b. *Possession with intent to distribute heroin*, a lesser-included offense of the offense charged in Count 2 of the Indictment, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C); and
- c. *Possession of a firearm in furtherance of a drug trafficking offense*, as charged in Count 3 of the Indictment, in violation of 18 U.S.C. § 924(c).

7 By entering these pleas of guilty, the defendant hereby waives all objections to the
8 form of the charging document. The defendant further understands that before entering his
9 guilty pleas, he will be placed under oath. Any statement given by the defendant under
10 oath may be used by the United States in a prosecution for perjury or false statement.

11 2. **Elements of the Offense.** The elements of the offenses to which the
12 defendant is pleading guilty are as follows:

a. *Possession with intent to distribute methamphetamine*, a lesser-included offense of the offense charged in Count 1 of the Indictment, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C):

First, the defendant knowingly possessed a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

Second, the mixture or substance in fact contained methamphetamine, its salts, isomers, or salts of its isomers;

Third, the defendant possessed it with the intent to distribute it to another person.

b. *Possession with intent to distribute heroin*, a lesser-included offense of the offense charged in Count 2 of the Indictment, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C):

First, the defendant knowingly possessed a mixture or substance containing a detectable amount of heroin;

Second, the mixture or substance in fact contained heroin;

1 Third, the defendant possessed it with the intent to distribute it to
2 another person.

3 c. *Possession of a firearm in furtherance of a drug trafficking offense*,
4 as charged in Count 3 of the Indictment, in violation of 18 U.S.C. § 924(c):

5 First, the defendant committed the crime of *Possession with intent to*
6 *distribute methamphetamine*, a lesser-included offense of the offense
7 charged in Count 1 of the Indictment, or the crime of *Possession*
8 *with intent to distribute heroin*, a lesser-included offense of the
9 offense charged in Count 2 of the Indictment;

10 Second, the defendant knowingly possessed a firearm; and

11 Third, the defendant possessed the firearm in furtherance of the
12 crime of *Possession with intent to distribute methamphetamine*, a
13 lesser-included offense of the offense charged in Count 1 of the
14 Indictment, or the crime of *Possession with intent to distribute*
15 *heroin*, a lesser-included offense of the offense charged in Count 2
16 of the Indictment.

17 3. **The Penalties.** The defendant understands that the statutory penalties
18 applicable to the offenses to which he is pleading guilty are as follows:

19 a. *Possession with intent to distribute methamphetamine*, a lesser-
20 included offense of the offense charged in Count 1 of the Indictment,
21 in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C): A maximum
22 term of imprisonment of 20 years; a fine of up to \$1,000,000; a
23 period of supervision following release from prison of at least three
24 years and up to life; and a mandatory special assessment of \$100. If
25 a probationary sentence is imposed, the probation period can be not
26 less than one and no more than five years.

27 b. *Possession with intent to distribute heroin*, a lesser-included offense
28 of the offense charged in Count 2 of the Indictment, in violation of

21 U.S.C. §§ 841(a)(1) and (b)(1)(C): A maximum term of imprisonment of 20 years; a fine of up to \$1,000,000; a period of supervision following release from prison of at least three years and up to life; and a mandatory special assessment of \$100. If a probationary sentence is imposed, the probation period can be not less than one and no more than five years.

c. *Possession of a firearm in furtherance of a drug trafficking offense*, as charged in Count 3 of the Indictment, in violation of 18 U.S.C. § 924(c): A maximum term of imprisonment of life; a mandatory minimum sentence of five years' imprisonment, to run consecutive to any other term of imprisonment; a fine of up to \$250,000; a period of supervision following release from prison of up to five years; and a mandatory special assessment of \$100.

The defendant understands that supervised release is a period of time following imprisonment during which he will be subject to certain restrictive conditions and requirements. The defendant further understands that if supervised release is imposed and he violates one or more of the conditions or requirements, the defendant could be returned to prison for all or part of the term of supervised release that was originally imposed. This could result in the defendant serving a total term of imprisonment greater than the statutory maximum stated above.

The defendant further understands that the consequences of pleading guilty may include the forfeiture of certain property either as a part of the sentence imposed by the Court, or as a result of civil judicial or administrative process.

The defendant agrees that any monetary penalty the Court imposes, including the special assessment, fine, costs, or restitution, is due and payable immediately and further agrees to submit a completed Financial Statement of Debtor form as requested by the United States Attorney's Office.

1 4. **Drug Offenses—Program Eligibility.** The defendant understands that by
2 pleading guilty to a felony drug offense, the defendant will become ineligible for certain
3 food stamp and Social Security benefits as directed by Title 21, United States Code, Section
4 862a.

5 5. **Rights Waived by Pleading Guilty.** The defendant understands that by
6 pleading guilty, he knowingly and voluntarily waives the following rights:

- 7 a. The right to plead not guilty and to persist in a plea of not guilty;
- 8 b. The right to a speedy and public trial before a jury of his peers;
- 9 c. The right to the effective assistance of counsel at trial, including, if
10 the defendant could not afford an attorney, the right to have the Court
11 appoint one for him;
- 12 d. The right to be presumed innocent until guilt has been established
13 beyond a reasonable doubt at trial;
- 14 e. The right to confront and cross-examine witnesses against the
15 defendant at trial;
- 16 f. The right to compel or subpoena witnesses to appear on his behalf at
17 trial;
- 18 g. The right to testify or to remain silent at trial, at which trial such
19 silence could not be used against the defendant; and
- 20 h. The right to appeal a finding of guilt or any pretrial rulings.

21 6. **Ultimate Sentence.** The defendant acknowledges that no one has promised
22 or guaranteed what sentence the Court will impose.

23 7. **Forfeiture of Assets.** The defendant agrees to forfeit to the United States
24 immediately all property used in any manner or part to commit or to facilitate the
25 commission of the offenses to which defendant is pleading guilty (charged as Counts 1-3
26 above) and any property constituting, or derived from, and any proceeds the defendant
27 obtained, directly or indirectly, as the result of the commission of those offenses, that are
28 subject to forfeiture pursuant to Title 21, United States Code, Section 853, and Title 18,

1 United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c),
2 including but not limited to the following:

- 3 a. A .30-06 caliber firearm with serial number 1350015;
- 4 b. A Smith & Wesson M&P 9mm, serial number DUD7810;
- 5 c. A .223 caliber firearm with serial number VS261399;
- 6 d. A Ruger Blackhawk, serial number 8254871;
- 7 e. A Marlin Firearms firearm with serial number 91589143;
- 8 f. A Remington Arms firearm with serial number 27717;
- 9 g. A Remington Arms 870 Express Mag shotgun, serial number
10 B683503M;
- 11 h. A Palmetto State Armory firearm with no serial number;
- 12 i. A 12-gauge shotgun of unknown model and with no serial number;
- 13 j. A firearm with serial number B255635;
- 14 k. A firearm of unknown model and with serial number 51056;
- 15 l. A Smith & Wesson M&P, serial number HUP6696; and
- 16 m. Ammunition and miscellaneous firearms accessories.

17 Defendant agrees to fully assist the United States in the forfeiture of this property and to
18 take whatever steps are necessary to pass clear title to the United States, including but not
19 limited to: surrendering title and executing any documents necessary to effect forfeiture;
20 assisting in bringing any property located outside the United States within the jurisdiction
21 of the United States; and taking whatever steps are necessary to ensure that property
22 subject to forfeiture is not sold, disbursed, wasted, hidden, or otherwise made unavailable
23 for forfeiture. Defendant agrees not to file a claim to any such property in any federal
24 forfeiture proceeding, administrative or judicial, that may be initiated.

25 **8. Abandonment of Contraband.** The defendant agrees that if any federal
26 law enforcement agency seized any firearms, ammunition, firearm accessories, or
27 contraband that were in the defendant's direct or indirect control, the defendant abandons
28 any and all interest in those firearms, ammunition, accessories, and contraband and

1 consents to their federal administrative forfeiture, official use, and/or destruction by the
2 federal law enforcement agency involved in the seizure of those items.

3 **9. Statement of Facts.** The defendant admits he is guilty of the charged
4 offenses, and the parties agree on the following facts:

5 a. On or about September 25, 2018, the defendant drove to a garage
6 located at 20407 28th Ave. W., in Lynnwood, Washington, 98036. The
7 defendant was arrested after entering and subsequently exiting the garage.
8 The defendant admitted that ~~there were illegal drugs, and specifically~~
9 ~~methamphetamine and counterfeit pills~~, within the garage. The defendant
10 also admitted that there were "a lot of guns" in the garage, that he had
11 exchanged drugs to obtain several firearms, and that several firearms were
12 ~~"possibly"~~
"probably" stolen.

13 b. During a search of the garage and the defendant's car pursuant to a
14 warrant, law enforcement found 18,768 grams of methamphetamine. The
15 defendant possessed these 18,768 grams of methamphetamine with the
16 intent to deliver them to another person, that is, a purchaser within the
17 United States.

18 c. During their search of the garage and car pursuant to a warrant, law
19 enforcement also found 1,402 grams of counterfeit pills—over 10,000
20 individual pills. These pills contained fentanyl. The defendant possessed
21 these 1,402 grams of fentanyl-laced counterfeit pills with the intent to
22 deliver them to another person, that is, a purchaser within the United States.

23 d. During their search of the garage and car pursuant to a warrant, law
24 enforcement also found 318 grams of heroin. The defendant possessed
25 these 318 grams of heroin with the intent to deliver them to another person,
26 that is, a purchaser within the United States.

e. During their search of the garage and car pursuant to a warrant, law enforcement also found 11 firearms, ammunition, and miscellaneous firearms accessories. The 11 firearms were:

- i. A .30-06 caliber firearm with serial number 1350015;
- ii. A Smith & Wesson M&P 9mm, serial number DUD7810;
- iii. A .223 caliber firearm with serial number VS261399;
- iv. A Ruger Blackhawk, serial number 8254871;
- v. A Marlin Firearms firearm with serial number 91589143;
- vi. A Remington Arms firearm with serial number 27717;
- vii. A Remington Arms 870 Express Mag shotgun, serial number B683503M;
- viii. A Palmetto State Armory firearm with no serial number;
- ix. A 12-gauge shotgun of unknown model and with no serial number;
- x. A firearm with serial number B255635;
- xi. A firearm of unknown model and with serial number 51056.

f. Defendant possessed the Smith & Wesson M&P 9mm (serial number DUD7810) and the Remington Arms 870 Express Mag shotgun (serial number B683503) in furtherance of his possession with intent to distribute methamphetamine and heroin.

g. During their search of the garage and car pursuant to a warrant, law enforcement also found \$89,543.00 in United States currency. That United States currency constitutes proceeds that the defendant obtained from the offenses to which he is pleading guilty.

h. The defendant had been renting the storage unit garage for approximately 18 months and was paying \$175 per month in rent to store items there. The defendant maintained and rented the garage for the

purpose of storing controlled substances for distribution and storing the proceeds of that distribution.

i. At that time, the defendant was living at 2331 190th St. SW., #A, in Lynnwood, WA 98036. During a search of the defendant's residence pursuant to a warrant, law enforcement found \$31,518.00 in United States currency. That United States currency constitutes proceeds that the defendant obtained from the offenses to which he is pleading guilty.

j. During their search of the defendant's residence pursuant to a warrant, law enforcement also found another firearm, a Smith & Wesson M&P, serial number HUP6696.

11 The parties agree that the Court may consider additional facts contained in the
12 Presentence Report (subject to standard objections by the parties) and/or that may be
13 presented by the United States or the defendant at the time of sentencing, and that the
14 factual statement contained herein is not intended to limit the facts that the parties may
15 present to the Court at the time of sentencing.

16 10. **United States Sentencing Guidelines.** The defendant understands and
17 acknowledges that the Court must consider the sentencing range calculated under the
18 United States Sentencing Guidelines and possible departures under the Sentencing
19 Guidelines together with the other factors set forth in Title 18, United States Code, Section
20 3553(a), including: (1) the nature and circumstances of the offenses; (2) the history and
21 characteristics of the defendant; (3) the need for the sentence to reflect the seriousness of
22 the offenses, to promote respect for the law, and to provide just punishment for the
23 offenses; (4) the need for the sentence to afford adequate deterrence to criminal conduct;
24 (5) the need for the sentence to protect the public from further crimes of the defendant; (6)
25 the need to provide the defendant with educational and vocational training, medical care,
26 or other correctional treatment in the most effective manner; (7) the kinds of sentences
27 available; (8) the need to provide restitution to victims; and (9) the need to avoid

1 unwarranted sentence disparity among defendants involved in similar conduct who have
2 similar records. Accordingly, the defendant understands and acknowledges that:

- 3 a. The Court will determine the defendant's applicable Sentencing
4 Guidelines range at the time of sentencing;
- 5 b. After consideration of the Sentencing Guidelines and the factors in
6 18 U.S.C. § 3553(a), the Court may impose any sentence authorized by
7 law, up to the maximum term authorized by law;
- 8 c. The Court is not bound by any recommendation regarding the
9 sentence to be imposed, or by any calculation or estimation of the
10 Sentencing Guidelines range offered by the parties or the United States
11 Probation Department, or by any stipulations or agreements between the
12 parties in this Plea Agreement; and
- 13 d. The defendant may not withdraw his guilty pleas solely because of
14 the sentence imposed by the Court.

15 **11. Acceptance of Responsibility.** At sentencing, *if* the district court concludes
16 that the defendant qualifies for a downward adjustment for acceptance of responsibility
17 pursuant to USSG § 3E1.1(a), and the defendant's offense level is 16 or greater, the United
18 States will make the motion necessary to permit the district court to decrease the total
19 offense level by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because the
20 defendant has assisted the United States by timely notifying the United States of his
21 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
22 and permitting the Court to allocate its resources efficiently.

23 **12. Recommendations Regarding Imprisonment.** Pursuant to Federal Rule
24 of Criminal Procedure 11(c)(1)(B), the defendant agrees to recommend no less than 84
25 months' imprisonment. The defendant understands that neither this recommendation nor
26 the government's ultimate recommendation is binding on the Court and the Court may
27 reject the recommendation and impose any term of imprisonment up to the statutory
28 maximum penalty authorized by law. The defendant further understands that he cannot

1 withdraw his guilty pleas simply because of the sentence imposed by the district court.
2 Except as otherwise provided in this plea agreement, the parties are free to present
3 arguments regarding any other aspect of sentencing.

4 **13. Sentencing Factors.** The parties agree that the following Sentencing
5 Guidelines provisions apply to this case:

6 a. Pursuant to § 2D1.1(c)(2), the offense involved at least 30,000 KG
7 but less than 90,000 KG of converted drug weight, resulting in a base
8 offense level of 36.

9 b. Pursuant to § 2D1.1(b)(12), the defendant maintained a premises for
10 the purpose of distributing a controlled substance, resulting in a 2-level
11 increase to defendant's offense level.

12 The parties agree they are free to present arguments regarding the applicability of
13 all other provisions of the United States Sentencing Guidelines. The defendant
14 understands, however, that at the time of sentencing, the Court is free to reject these
15 stipulated adjustments, and is further free to apply additional downward or upward
16 adjustments in determining the defendant's Sentencing Guidelines range.

17 **14. Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,
18 the United States Attorney's Office for the Western District of Washington agrees not to
19 prosecute the defendant for any additional offenses known to it as of the time of this
20 Agreement that are based upon evidence in its possession at this time, and that arise out of
21 the conduct giving rise to this investigation. In this regard, the defendant recognizes that,
22 solely because of the promises made by the defendant in this Agreement, the United States
23 has agreed not to prosecute all of the criminal charges the evidence establishes were
24 committed by the defendant. The defendant agrees, however, that for purposes of
25 preparing the Presentence Report, the United States Attorney's Office will provide the
26 United States Probation Office with evidence of all conduct committed by the defendant.

27 The defendant agrees that any charges to be dismissed before or at the time of
28 sentencing were substantially justified in light of the evidence available to the United

1 States, were not vexatious, frivolous or taken in bad faith, and do not provide the defendant
 2 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119
 3 (1997).

4 **15. Breach, Waiver, and Post-Plea Conduct.** The defendant agrees that if he
 5 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement
 6 and the defendant may be prosecuted for all offenses for which the United States has
 7 evidence. The defendant agrees not to oppose any steps taken by the United States to
 8 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea
 9 Agreement. The defendant also agrees that if he is in breach of this Plea Agreement, he
 10 has waived any objection to the re-institution of any charges in the Indictment that were
 11 previously dismissed or any additional charges that had not been prosecuted.

12 The defendant further understands that if, after the date of this Agreement, the
 13 defendant should engage in illegal conduct, or conduct that violates any conditions of
 14 release or the conditions of his confinement, (examples of which include, but are not
 15 limited to, obstruction of justice, failure to appear for a court proceeding, criminal conduct
 16 while pending sentencing, and false statements to law enforcement agents, the Pretrial
 17 Services Officer, Probation Officer, or Court), the United States is free under this
 18 Agreement to file additional charges against the defendant or to seek a sentence that takes
 19 such conduct into consideration by requesting the Court to apply additional adjustments or
 20 enhancements in its Sentencing Guidelines calculations in order to increase the applicable
 21 advisory Guidelines range, and/or by seeking an upward departure or variance from the
 22 calculated advisory Guidelines range. Under these circumstances, the United States is free
 23 to seek such adjustments, enhancements, departures, and/or variances even if otherwise
 24 precluded by the terms of the Plea Agreement.

25 **16. Waiver of Appellate Rights and Rights to Collateral Attacks.** The
 26 defendant acknowledges that by entering the guilty pleas required by this Plea Agreement,
 27 he waives all rights to appeal from his conviction and any pretrial rulings of the court. The
 28 defendant further agrees that, provided the court imposes a custodial sentence that is within

1 or below the Sentencing Guidelines range (or the statutory mandatory minimum, if greater
2 than the Guidelines range) as determined by the court at the time of sentencing, the
3 defendant waives to the full extent of the law:

- 4 a. Any right conferred by Title 18, United States Code, Section 3742,
5 to challenge, on direct appeal, the sentence imposed by the court, including
6 any fine, restitution order, probation or supervised release conditions, or
7 forfeiture order (if applicable); and
- 8 b. Any right to bring a collateral attack against the conviction and
9 sentence, including any restitution order imposed, except as it may relate to
10 the effectiveness of legal representation.

11 This waiver does not preclude the defendant from bringing an appropriate motion,
12 pursuant to 28 U.S.C. § 2241, to address the conditions of his confinement or the decisions
13 of the Bureau of Prisons regarding the execution of his sentence.

14 If the defendant breaches this Plea Agreement at any time by appealing or
15 collaterally attacking (except as to effectiveness of legal representation) the conviction or
16 sentence in any way, the United States may prosecute the defendant for any counts,
17 including those with mandatory minimum sentences, that were dismissed or not charged
18 pursuant to this Plea Agreement.

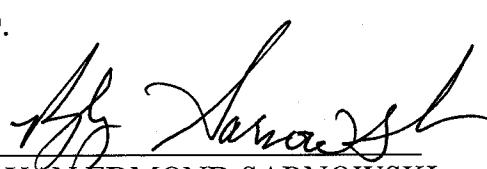
19 **17. Voluntariness of Plea.** The defendant agrees that he has entered into this
20 Plea Agreement freely and voluntarily and that no threats or promises, other than the
21 promises contained in this Plea Agreement, were made to induce the defendant to enter his
22 pleas of guilty.

23 **18. Statute of Limitations.** In the event this Agreement is not accepted by the
24 Court for any reason, or the defendant has breached any of the terms of this Agreement,
25 the statute of limitations shall be deemed to have been tolled from the date of the Plea
26 Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea
27 Agreement by the Court; or (2) thirty (30) days following the date on which a breach of
28 the Plea Agreement by the defendant is discovered by the United States Attorney's Office.

1 19. **Completeness of Agreement.** The United States and the defendant
2 acknowledge that, except as to certain matters set forth during the plea colloquy in open
3 court, if any, these terms constitute the entire Plea Agreement between the parties. This
4 Agreement binds only the United States Attorney's Office for the Western District of
5 Washington. It does not bind any other United States Attorney's Office or any other office
6 or agency of the United States, or any state or local prosecutor.

7

8 Dated this 8th day of October, 2019.

9
10 
11 BRYAN EDMOND SARNOWSKI
12 Defendant

13 
14 NANCY TENNEY
15 Attorney for Defendant

16 
17 S. KATE VAUGHAN
18 Assistant United States Attorney

19 
20 WILLIAM DREHER
21 Assistant United States Attorney